Congress of the United States
House of Representatives
Washington, DC 20515

July 26, 2006

The Honorable Michael O. Leavitt
Secretary
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Leavitt:

We are writing to urge that the Department of Health and Human Services not implement regulatory changes referenced in President Bush's fiscal year 2007 budget that would result in severe cuts to Medicaid. Given the magnitude and scope of these cuts, we have grave concerns about their effect on access to health services for low and moderate income Americans as well as the providers that serve them.

As you know, the Medicaid regulatory proposals in the President's FY 2007 budget would reduce federal Medicaid expenditures by $30.4 billion over the next 10 years. Ninety-eight percent of these cuts represents a shift of costs from the Federal Government to the States, severely limiting the ability of States to continue providing current levels of service in Medicaid. Moreover, the President's proposed cuts follow on the heels of significant Federal Medicaid cuts of $28 billion over the next 10 years that were enacted as part of the Deficit Reduction Act this year. These regulatory changes include cutting Medicaid coverage of administrative and transportation costs associated with treating children with disabilities who are covered by the Individuals with Disabilities Education Act; cutting Medicaid payments for certain kinds of rehabilitation services, such as therapy and special instruction for individuals with mental illness and developmental disabilities; limiting the ability of States to pay State and local hospitals to help cover the cost of serving uninsured patients; and restricting the ability of States to use provider taxes under Medicaid.

The proposed regulatory cut in payments to schools for providing healthcare services includes limits on reimbursement for administrative costs, transportation and healthcare services. These cuts would severely limit the ability of schools to help families enroll their children in Medicaid and to ensure that children enrolled in Medicaid get all necessary healthcare services at the school or outside the school setting when services are not available on site. The cuts would have a particularly severe impact on the ability of children with special healthcare needs to get care through school-based health programs and maintain their ability to stay in school.

Since 1986 Federal Medicaid policy has explicitly recognized the essential nature of the link between Medicaid and health care for children whose special needs make access to treatment and management in school settings an imperative. These cuts would not only harm the ability of children with serious and chronic conditions to get the care they need in mainstream, community settings (a priority of this Administration) but also would undermine longstanding efforts by schools to ensure children are mentally and physically able to learn in the most appropriate setting.

Rather than discouraging health care in schools, CMS should provide extensive technical assistance to States that seek to optimize children's opportunities to receive the health care they need in order to learn in community educational settings instead of being forced to remain at home. All of this is fully permitted under the current law.

In addition, the Administration's proposed reductions in rehabilitation services, on top of the cuts to school-based care, would strike a second blow for children living with disabilities. This proposed regulatory cut would restrict access to critical services that all people with disabilities, who rely on Medicaid for their care, require to retain or regain maximum function.

The Administration's budget has a third regulatory change that greatly limits States' ability to use provider assessments to fund their Medicaid program. In spite of the fact that the Congress considered, and rejected, this proposed change in 2005 during the Deficit Reduction Act, we understand that the Administration still wishes to press forward with this change through regulation. This proposed regulatory change would reduce by up to half the amount of provider-paid revenues that a State could use to help finance its Medicaid program. It is unclear why the current law provisions that were adopted by the first Bush Administration and has been in place for the past 13 years is no longer appropriate.

States need revenues to pay their share of Medicaid costs, costs that are driven by the number of low-income families and elderly or disabled people enrolled in a State's Medicaid program, their need for health care or long-term care services, and the cost of purchasing those services from hospitals, nursing homes, physicians, and other healthcare providers. The Administration's regulatory change would do nothing to lower those costs, but would instead place additional fiscal pressures on States to either cut back their Medicaid expenditures through such means as lowering eligibility limits, reducing the health benefits that are covered, and/or scaling back payment rates to providers or raise taxes. In States that opt to cut their Medicaid programs, low-income families, people with disabilities, and seniors will be at risk.

In more than a decade of policy stability, more than two-thirds of the States have come to rely on at least one type of provider tax to help finance their Medicaid programs, and it is not uncommon for States to impose provider taxes under the first Bush administration's limits. If the current Administration reduces these limits, many of these States will encounter difficulty. Moreover, revenues from these taxes are often used to increase traditionally low Medicaid payment rates, helping to improve quality and access in the program overall.

The Administration's fourth regulatory proposal would cap payments to government providers. Since Medicaid pays for most services provided by governmental safety net hospitals, limiting their ability to receive payments that achieve even a nominal return on services would undermine quality of care and impair their ability to provide subsidized care for those uninsured they now serve. Government providers do not traditionally see many privately insured individuals where they might see some profit to make improvements in the quality of care for example. Governmental hospital systems are principal healthcare providers for the Medicaid population and the uninsured throughout the country—in some areas they are the only such provider. They also provide critical and expensive services to all residents across counties and States—including trauma care, emergency preparedness, neo-natal care, HIV AIDS, burn care and other highly specialized medical services.

This proposal to restrict Medicaid payments to government providers to no more than Medicaid's actual cost to provide the service does not take into account the extraordinary costs related to the provision of these services, the shortfalls related to covering the Medicaid population generally, or the uninsured. If implemented, these proposals will result in major service reductions by public hospitals that cannot simply be absorbed by the private sector.

Medicaid, which provides health and long-term care insurance to more than 60 million low-income Americans, is a joint Federal-State responsibility. Unfortunately, of late the Administration is moving away from its Federal responsibility, shifting more of the burden on to the states. Ironically, rather than giving them more flexibility, this will leave States with less, the only option being to cut benefits, shift more costs to families of modest means, or eliminate coverage, thus increasing the number of uninsured.

While there are always actions that can be taken to improve the efficiency of any program, the proposed administrative changes are not the correct approach, and could in fact even impede or reduce program efficiency and effectiveness in some instances. Implementation of the Administration's proposals by regulation would be a clear violation of the will of the legislative branch, Congress. Eighty-five Republican members of the House have written you to oppose these actions, and along with the Democratic signatories of this letter, as well as the bipartisan letter in the Senate, it is clear these Medicaid cuts are not widely supported in the Congress. Likewise, the bipartisan National Governors Association has indicated their opposition to these proposals. Numerous Democratic and Republican governors individually have also weighed in to oppose these changes. We urge you, in the interest of protecting the health and health coverage for 20 percent of our nation's population, not to move forward with these administrative cuts.

Sincerely,

Nancy Pelosi

James E. Clyburn

John B. Larson

John D. Dingell

Sherrod Brown

Henry A. Waxman

George Miller

Ed Markey

Rick Boucher

[illegible]

Frank Pallone, Jr.

Bart Gordon

Bobby L. Rush

Anna Eshoo

Bart Stupak

Eliot L. Engel

Gene Green

Albert R. Wynn

Ted Strickland

Emanuel Cleaver

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Grace F. Napolitano

Danny K Davis

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Steve Israel

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Barbara Lee

Rick Larsen

Patrick J. Kennedy

Dennis J. Kucinich

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John T Salazar

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John F Tierney

Diana DeGette

Mike Doyle

Jim Davis

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Mike Ross

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Tammy Baldwin

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Carolyn McCarthy	Stephen F. Lynch
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Richard E Neal

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Marcy Kaptur

Bill Pascrell Jr.

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Jane Harman

Paul E Kanjorski

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Henry Cuellar

John Spratt

C.A. Dutch Ruppersberger

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Nita M. Lowey

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Dale E. Kildee

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Earl Blumenauer

Chris Van Hollen

Daniel Lipinski

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[illegible] — [illegible]

Ben Chandler — Gene Green

Tom Udall — Leonard L. Boswell

[illegible] — John W. Olver

Betty McCollum — [illegible]

[illegible] — Susan Davis

Sanford Bishop Jr. — Julia Carson

[illegible] — Shelley Berkley

Loretta Sanchez — Chet Edwards

Elijah E. Cummings

Barney Frank

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Jerry F. Costello

John Barrow

Charles B. Rangel

Alcee L. Hastings

Steven R. Rothman

Gene Taylor

Jerrold Nadler

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Russ Carnahan

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Rubén Hinojosa

Juanita Millender-McDonald

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Lynn Woolsey

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Cynthia McKinney

Nydia M. Velázquez

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Major R. Owens

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Brad Sherman

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Jim Costa

Jim Matheson

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Ed Pastor

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Bud Cramer

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